## IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH CAROLINA ANDERSON DIVISION

Jessie Lee Robinson,	) C/A No. 8:04-22863-CMC-BHH
Plaintiff,	) )
v.	) ORDER AND OPINION
Al Cannon, Jr., K. P. Novak and NFN Triplett,	) ) )
Defendants.	)

This action was brought by a state prisoner, proceeding *pro se*, who is seeking relief pursuant to 42 U.S.C. § 1983. Defendant Triplett filed a motion for summary judgment and/or to dismiss on April 25, 2005. On May 9, 2005, Defendants Cannon and Novak filed a copy of the envelope containing a copy of their motion for summary judgment they had attempted to serve on Plaintiff. The court issued a *Roseboro* order after each motion was filed explaining summary judgment procedures and consequences of a failure to respond. In both instances, the envelopes containing the orders were returned as undeliverable by the United States Postal Service. In accordance with this court's order of reference and 28 U.S.C. § 636(b), this matter was referred to United States Magistrate Judge Bruce H. Hendricks for a Report and Recommendation.

This court is charged with making a *de novo* determination of any portion of the Report and Recommendation of the Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b).

Based on her review of the record, the Magistrate Judge has recommended that this action

be dismissed for lack of prosecution. A Notice of Right to File Objections to Magistrate Judge's "Report and Recommendation" explaining the procedures for filing objections and the consequences if none were filed was issued by the court. No objections have been filed and the time for doing so has expired.<sup>1</sup>

After reviewing the Complaint, the record, and the Report and Recommendation of the Magistrate Judge, the court agrees with the recommendation of the Magistrate Judge.

IT IS HEREBY ORDERED that this action is **DISMISSED** for lack of prosecution pursuant to Federal Rule of Civil Procedure 41(b).

IT IS SO ORDERED.

s/ Cameron McGowan Currie
CAMERON MCGOWAN CURRIE
UNITED STATES DISTRICT JUDGE

Columbia, South Carolina June 21, 2005

<sup>&</sup>lt;sup>1</sup>The envelope containing the Report and Recommendation was also returned by the United States Postal Service marked "UNCLAIMED."